

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JANE DOE VIII, et al.,)	
Plaintiffs,)	
vs.)	No. 3:08-CV-0309-P (BH)
)	ECF
MYSPEACE, INC., et al.,)	Referred to U.S. Magistrate Judge
Defendants.)	

ORDER

Before the Court is a motion for leave to proceed *in forma pauperis* filed by Defendant Kiley Ryan Bowers, ID # 35156-177, a federal prisoner housed at FCI Seagoville. On or about February 21, 2008, Defendant Bowers removed Plaintiffs' state action to federal court and sought to avoid the federal filing fee for such removal by proceeding *in forma pauperis*.¹ After carefully evaluating the submitted documentation, this Court finds that Defendant Bowers has sufficient assets to pay the full filing fee.

Whether to permit or deny an applicant to proceed *in forma pauperis* is within the sound discretion of the Court. *Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir. 1988); *see also* 28 U.S.C. § 1915(a). Courts should make the assessment of financial ability after considering whether payment of the filing fee will result in the party "suffering undue financial hardship." *Prows*, 842 F.2d at 140.

Defendant Bowers has submitted documentation which indicates that he currently has \$400.00 in a non-prison checking account and no financial obligations other than \$17.00 per month for various prison expenses that is covered by his \$17.00 monthly prison income. In light of the foregoing, the Court finds that Defendant Bowers has access to sufficient funds to pay the filing fee

¹ Section 1914(a) of Title 28 of the United States Code currently requires a \$350.00 filing fee for removed actions.

for this action. It thus concludes that he will not suffer undue financial hardship after payment of the \$350.00 filing fee.

For the foregoing reasons, the Court should deny the motion to proceed *in forma pauperis* filed by Defendant Bowers. Nevertheless, because it appears more appropriate and efficient to grant him thirty days to pay the requisite filing fee before the Court formally denies leave to proceed *in forma pauperis*, the Court orders Defendant Bowers to tender the full filing fee of \$350.00 to the Clerk of the Court within thirty days of the date of this Order. If Defendant Bowers does not timely pay the filing fee, the Court may order the action summarily remanded to state court as a sanction for failing to follow an order of the Court.

SO ORDERED.

SIGNED this 7th day of March, 2008.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE